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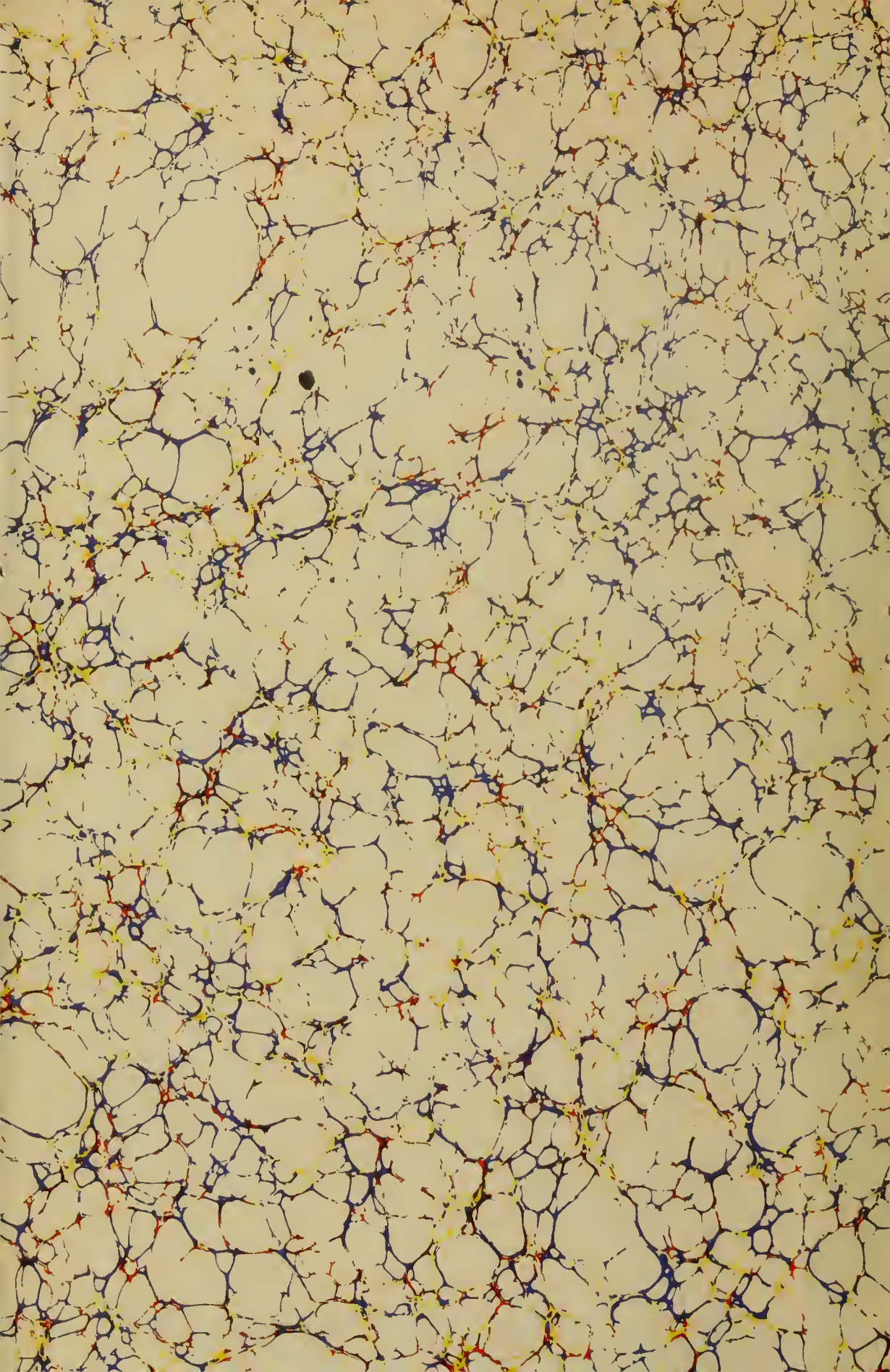
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TREASURY DEPARTMENT

AN ACT

To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

MAY 13 (calendar day, JUNE 25), 1935

Read twice and referred to the Committee on Finance

74TH CONGRESS
1ST SESSION

H. R. 8870

[Report No. 1215]

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 25), 1935

Read twice and referred to the Committee on Finance

JULY 29 (calendar day, AUGUST 9), 1935

Reported by Mr. GEORGE, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Federal Alcohol Admin-
4 istration Control Act.”

5 FEDERAL ALCOHOL ADMINISTRATION

6 SEC. 2. (a) There is hereby created the Federal
7 Alcohol Administration as a division in the Treasury
8 Department.

1 ~~(b)~~ The Administration shall be headed by an Admin-
2 istrator, who shall be appointed by the President, by and
3 with the advice and consent of the Senate. The Admin-
4 istrator shall for his services receive compensation at the
5 rate of \$10,000 per annum, together with actual and neces-
6 sary traveling and subsistence expenses while engaged in
7 the exercise of his powers and duties outside the District
8 of Columbia. No person shall be eligible to appointment,
9 or continue in office, as Administrator if he is engaged or
10 financially interested in, or is an officer or director of or
11 employed by a corporation engaged in, the production or
12 sale or other distribution of alcoholic beverages, or the
13 financing thereof.

14 ~~(c)~~ The Administrator shall, without regard to the
15 civil-service laws and the Classification Act of 1923, as
16 amended, appoint and fix the compensation and duties of
17 such officers and employees as he deems necessary to carry
18 out his powers and duties, but the compensation so fixed
19 shall be subject to the approval of the Secretary of the
20 Treasury. The Administrator is authorized to adopt an
21 official seal, which shall be judicially noticed.

22 ~~(d)~~ The Administrator is authorized and directed to
23 prescribe such rules and regulations as may be necessary
24 to carry out his powers and duties. All rules and regula-
25 tions prescribed by the Administrator shall be subject to
26 the approval of the Secretary of the Treasury.

FEDERAL ALCOHOL COMMISSION

1
2 *SEC. 2. (a) There is hereby established a commission*
3 *to be known as the Federal Alcohol Commission, to be com-*
4 *posed of three commissioners, who shall be appointed by*
5 *the President by and with the advice and consent of the*
6 *Senate. The terms of office of the commissioners first taking*
7 *office shall expire, as designated by the President at the time*
8 *of nomination, one at the end of the first year, one at the*
9 *end of the second year, and one at the end of the third year*
10 *after the date of the enactment of this Act. A successor*
11 *shall have a term of office expiring three years from the date*
12 *of expiration of the term for which his predecessor was ap-*
13 *pointed, except that a person appointed to fill a vacancy*
14 *occurring prior to the expiration of such term shall be*
15 *appointed for the remainder of such term. No person shall*
16 *be eligible for appointment as a commissioner or continue in*
17 *office as a commissioner if he is engaged or financially inter-*
18 *ested in, or is an officer or director of or employed by a*
19 *company engaged in, the production or sale of alcoholic*
20 *beverages or the financing thereof. Each commissioner*
21 *shall, for his services, receive compensation at the rate of*
22 *\$10,000 per annum, together with actual and necessary*
23 *traveling and subsistence expenses while engaged in the per-*
24 *formance of his duties as commissioner outside the District*
25 *of Columbia.*

1 (b) *As designated by the President at the time of nom-*
2 *ination: One of the commissioners shall be chairman of the*
3 *commission and shall be the chief executive officer of the*
4 *commission; another of the commissioners shall be vice-*
5 *chairman of the commission and shall perform the functions*
6 *and duties of the chairman in his absence or in the event*
7 *of his incapacity caused by illness; and the third commis-*
8 *sioner, who shall be a lawyer, shall be general counsel of*
9 *the commission. The commission may function notwith-*
10 *standing vacancies, and a majority of the commissioners*
11 *in office shall constitute a quorum. The commission shall*
12 *meet at the call of the chairman or a majority of its mem-*
13 *bers. The commission is authorized to adopt an official seal,*
14 *which shall be judicially noticed. The commission shall*
15 *be entitled to free use of the United States mails in the same*
16 *manner as the Executive departments.*

17 (c) *The commission shall, without regard to the civil-*
18 *service laws, but subject to the Classification Act of 1923,*
19 *as amended, appoint and fix the compensation and prescribe*
20 *the duties of such officers and employees as may be necessary*
21 *to carry out its powers and duties; except that any such*
22 *officer or employee receiving a salary at the rate of \$5,000*
23 *or more per annum shall be appointed by the President,*
24 *by and with the advice and consent of the Senate.*

1 (d) The commission is authorized and directed to
2 prescribe such rules and regulations as may be necessary
3 to carry out its powers and duties.

4 (e) Appropriations to carry out powers and duties of
5 the ~~Administrator~~ commission shall be available for expendi-
6 ture, among other purposes, for personal services and rent
7 in the District of Columbia and elsewhere, expenses for
8 travel and subsistence, for law books, books of reference,
9 magazines, periodicals, and newspapers, for contract steno-
10 graphic reporting services, for subscriptions for library
11 services, for purchase of samples for analysis or use as
12 evidence, and for holding ~~conference~~ conferences of State
13 and Federal liquor control officials.

14 (f) The ~~Administrator~~ commission may, with the con-
15 sent of the department or agency affected, utilize the services
16 of any department or other agency of the Government to the
17 extent necessary to carry out ~~his~~ its powers and duties and
18 authorize officers and employees thereof to act as ~~his~~ its
19 agents.

20 (g) The provisions, including penalties, of sections 9
21 and 10 of the Federal Trade Commission Act, as now or
22 hereafter amended, shall be applicable to the jurisdiction,
23 powers, and duties of the ~~Administrator~~ commission, and to
24 any person (whether or not a corporation) subject to the

1 provisions of laws administered by the ~~Administrator~~
2 commission.

3 (h) The ~~Administrator~~ commission is authorized to
4 require, in such manner and form as ~~he~~ it shall prescribe,
5 such reports as are necessary to carry out ~~his~~ its powers
6 and duties.

7 (i) *The commission is authorized to make investiga-*
8 *tions and studies and to report thereon from time to time*
9 *to the President and to the Congress, together with recom-*
10 *mendations, with respect to matters necessary for the proper*
11 *performance of the powers and duties conferred upon the*
12 *commission, and with respect to the production, distribution,*
13 *and consumption of alcoholic beverages, including monopo-*
14 *listic practices, unfair methods of competition, and concen-*
15 *tration of ownership in the alcoholic beverages industries, and*
16 *control of retail outlets and prices; advertising, labeling, and*
17 *merchandising methods with respect to alcoholic beverages,*
18 *including standards of identity, quality, and size and fill of*
19 *container therefor; and enforcement of the twenty-first amend-*
20 *ment, State and Federal cooperation in the administration*
21 *of alcoholic beverage control laws, and methods of promoting*
22 *temperance. The commission, whenever in its judgment such*
23 *action will be in the public interest, may publish the results*
24 *of such investigations and studies.*

1 (j) *The commission shall make a report to Congress, at*
 2 *the beginning of each regular session, of the administration*
 3 *of the functions with which it is charged, and shall include*
 4 *in such report the names and compensation of all persons*
 5 *employed by the commission.*

6 UNLAWFUL BUSINESSES WITHOUT PERMIT

7 SEC. 3. In order effectively to regulate interstate and
 8 foreign commerce in ~~distilled spirits, wine, and malt bev-~~
 9 ~~erages~~ *distilled spirits and wine*, to enforce the twenty-
 10 first amendment, and to protect the revenue and enforce
 11 the postal laws with respect to ~~distilled spirits, wine, and~~
 12 ~~malt beverages~~ *distilled spirits and wine*:

13 (a) It shall be unlawful, except pursuant to a basic
 14 permit issued under this Act by the ~~Administrator~~ *com-*
 15 *mission—*

16 (1) to engage in the business of importing into
 17 the United States ~~distilled spirits, wine, or malt bev-~~
 18 ~~erages~~ *distilled spirits or wine*; or

19 (2) for any person so engaged to sell, offer or
 20 deliver for sale, contract to sell, or ship, in interstate
 21 or foreign commerce, directly or indirectly or through
 22 an affiliate, ~~distilled spirits, wine, or malt beverages~~
 23 *distilled spirits or wine* so imported.

1 This subsection shall take effect sixty days after ~~the date of~~
 2 ~~the enactment of this Act~~ *a majority of the commissioners*
 3 *first appointed take office.*

4 (b) It shall be unlawful, except pursuant to a basic
 5 permit issued under this Act by the ~~Administrator~~ *com-*
 6 *mission—*

7 (1) to engage in the business of distilling dis-
 8 tilled spirits, producing wine, rectifying or blending
 9 distilled spirits or wine, or bottling, or warehousing and
 10 bottling, distilled spirits; or

11 (2) for any person so engaged to sell, offer or
 12 deliver for sale, contract to sell, or ship, in interstate or
 13 foreign commerce, directly or indirectly or through an
 14 affiliate, distilled spirits or wine so distilled, produced,
 15 rectified, blended, or bottled, or warehoused and
 16 bottled.

17 This subsection shall take effect sixty days after ~~the date of~~
 18 ~~the enactment of this Act~~ *a majority of the commissioners*
 19 *first appointed take office.*

20 (c) It shall be unlawful, except pursuant to a basic
 21 permit issued under this Act by the ~~Administrator~~ *commis-*
 22 *sion—*

23 (1) to engage in the business of purchasing for
 24 resale at wholesale ~~distilled spirits, wine, or malt bev-~~
 25 ~~erages~~ *distilled spirits or wine; or*

(2) for any person so engaged to receive or to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, ~~distilled spirits, wine, or malt beverages~~ *distilled spirits or wine* so purchased.

6 This subsection shall take effect ~~January~~ *March* 1, 1936.

7 This section shall not apply to any agency of a State
8 or political subdivision thereof or any officer or employee of
9 any such agency, and no such agency or officer or employee
10 shall be required to obtain a basic permit under this Act.

11 PERMITS

12 SEC. 4. (a) The following persons shall, on appli-
13 cation therefor, be entitled to a basic permit:

(1) Any person who, on May 25, 1935, held a basic permit as distiller, rectifier, wine producer, or importer issued by an agency of the Federal Government.

(2) Any other person unless the Administrator
commission finds (A) that such person (or in case of
a corporation, any of its officers, directors, or principal
stockholders) has, within five years prior to date of
application, been convicted of a felony under Federal
or State law or of a violation of any Federal law
relating to liquor, including the taxation thereof;
or (B) that such person is, by reason of his

1 business experience, financial standing, or trade con-
2 nections, not likely to commence operations within a
3 reasonable period or to maintain such operations in
4 conformity with Federal law; or (C) that the opera-
5 tions proposed to be conducted by such person are
6 in violation of the law of the State in which they
7 are to be conducted.

8 (b) If upon examination of any application for a
9 basic permit the ~~Administrator~~ *commission* has reason to
10 believe that the applicant is not entitled to such permit, ~~he~~
11 *the commission* shall notify the applicant thereof and, upon
12 request by the applicant, afford him due notice and oppor-
13 tunity for hearing on the application. If the ~~Administrator~~
14 *commission*, after affording such notice and opportunity for
15 hearing, finds that the applicant is not entitled to a basic
16 permit hereunder, ~~he~~ *it* shall by order deny the application
17 stating the findings which are the basis for ~~his~~ *its* order.

18 (c) The ~~Administrator~~ *commission* shall prescribe the
19 manner and form of all applications for basic permits (in-
20 cluding the facts to be set forth therein) and the form of
21 all basic permits, and shall specify in any basic permit the
22 authority conferred by the permit and the conditions thereof
23 in accordance with the provisions of this Act. To the extent
24 deemed necessary by the ~~Administrator~~ *commission* for the
25 efficient administration of this Act, separate applications and

1 permits shall be required by the ~~Administrator~~ *commission*
 2 with respect to ~~distilled spirits, wine, and malt beverages~~
 3 *distilled spirits and wine*, and the various classes thereof,
 4 and with respect to the various classes of persons entitled
 5 to permits hereunder. The issuance of a basic permit under
 6 this Act shall not operate to deprive the United States of
 7 its remedy for any violation of law.

8 (d) A basic permit shall be conditioned upon com-
 9 pliance with the requirements of section 5 (relating to
 10 unfair competition and unlawful practices) *and of section 6*
 11 *(relating to bulk sales and bottling)*, with the twenty-first
 12 amendment and laws relating to the enforcement thereof,
 13 and with all other Federal laws relating to ~~distilled spirits,~~
 14 ~~wine, and malt beverages~~ *distilled spirits and wine*, including
 15 taxes with respect thereto.

16 (e) ~~(1)~~ No basic permit issued under this Act shall
 17 contain any condition prohibiting, nor shall any rule,
 18 regulation, or order, issued under this or any other Act of
 19 Congress, prohibit, the use or sale of any barrel, cask, or
 20 keg, if made of wood and if of one or more wine-gallons
 21 capacity, as a container in which to store, transport, or
 22 sell, or from which to sell, any distilled spirits, wine, or
 23 malt beverages. This subsection shall not apply to any
 24 condition in any basic permit issued under this Act or any
 25 rule, regulation, or order issued in connection therewith to

1 the extent that such condition applies in a State in which
2 the use or sale of any such barrel, cask, or keg is prohibited
3 by the law of such State.

4 (2) It shall be unlawful for any person to package
5 or repackage distilled spirits for sale or resale in bottles
6 unless such person is a distiller, a rectifier of distilled
7 spirits, or a person operating a bonded warehouse qualified
8 under the internal revenue laws or a class 8 bonded ware-
9 house qualified under the customs laws, holding a basic
10 permit under this Act, or is a proprietor of an industrial
11 alcohol plant or is an agency of a State or political subdivi-
12 sion thereof: *Provided*, That any other person may so
13 package distilled spirits in bottles if he qualifies under the
14 internal revenue laws as a rectifier and holds a basic permit
15 issued under this Act for the rectification of distilled spirits.

16 (3) Notwithstanding the foregoing provisions of this
17 subsection, no person who is subject to the occupational tax
18 imposed by section 3244 "Fourth" of the Revised Statutes,
19 as amended (U. S. C., Supp. VII, title 26, sec. 1394 (c)),
20 on retail dealers in liquors shall package or repackage dis-
21 tilled spirits for sale or resale in bottles or be eligible to
22 qualify as a rectifier of distilled spirits, and no such person,
23 except a bona fide hotel or club, shall, for purposes of sale,
24 remove from any such barrel, cask, or keg any distilled
25 spirits contained therein. Any person who violates the pro-

visions of this paragraph or paragraph ~~(2)~~ shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than one year, or both, and shall forfeit to the United States all distilled spirits with respect to which the violation occurs, and the bottles in which packaged.

~~(f)~~ (e) A basic permit shall by order of the ~~Administrator~~ *commission*, after due notice and opportunity for hearing to the permittee, (1) be revoked, or suspended for such period as the ~~Administrator~~ *commission* deems appropriate, if the ~~Administrator~~ *commission* finds that the permittee has willfully violated any of the conditions thereof, provided that for a first violation of the conditions thereof the permit shall be subject to suspension only; or (2) be revoked if the ~~Administrator~~ *commission* finds that the permittee has not engaged in the operations authorized by the permit for a period of more than two years; or (3) be annulled if the ~~Administrator~~ *commission* finds that the permit was procured through fraud, or misrepresentation, or concealment of material fact. The order shall state the findings which are the basis for the order.

~~(g)~~ (f) Orders of the ~~Administrator~~ *commission* with respect to any denial of application, suspension, revocation, annulment, or other proceedings, shall be served (1) in person by any officer or employee of the ~~Administration~~

1 *commission* designated by the ~~Administrator~~ *commission*
 2 or any internal revenue or customs officer authorized by
 3 the ~~Administrator~~ *commission* for the purpose, or (2) by
 4 mailing the order by registered mail, addressed to the appli-
 5 cant or respondent at his last known address in the records
 6 of the ~~Administrator~~ *commission*.

7 ~~(h)~~ (g) A basic permit shall continue in effect until sus-
 8 pended, revoked, or annulled as provided herein, or volun-
 9 tarily surrendered; except that (1) if leased, sold or
 10 otherwise voluntarily transferred, the permit shall be auto-
 11 matically terminated thereupon, and (2) if transferred by
 12 operation of law or if actual or legal control of the permittee
 13 is acquired, directly or indirectly, whether by stock-owner-
 14 ship or in any other manner, by any person, then such
 15 permit shall be automatically terminated at the expiration
 16 of thirty days thereafter: *Provided*, That if within such
 17 thirty-day period application for a new basic permit is made
 18 by the transferee or permittee, respectively, then the out-
 19 standing basic permit shall continue in effect until such
 20 application is finally acted on by the ~~Administrator~~
 21 *commission*.

22 ~~(i)~~ (h) An appeal may be taken by the permittee or
 23 applicant for a permit from any order of the ~~Administrator~~
 24 *commission* denying an application for, or suspending, revok-
 25 ing, or annulling, a basic permit. Such appeal shall be taken

1 by filing, in the circuit court of appeals of the United States
2 within any circuit wherein such person resides or has his
3 principal place of business, or in the United States Court of
4 Appeals for the District of Columbia, within sixty days after
5 the entry of such order, a written petition praying that the
6 order of the ~~Administrator~~ *commission* be modified or set
7 aside in whole or in part. A copy of such petition shall be
8 forthwith served upon the ~~Administrator~~ *commission*, or
9 upon any officer designated by ~~him~~ *it* for that purpose, and
10 thereupon the ~~Administrator~~ *commission* shall certify and
11 file in the court a transcript of the record upon which the
12 order complained of was entered. Upon the filing of such
13 transcript such court shall have exclusive jurisdiction to
14 affirm, modify, or set aside such order, in whole or in part.
15 No objection to the order of the ~~Administrator~~ *commission*
16 shall be considered by the court unless such objection shall
17 have been urged before the ~~Administrator~~ *commission* or
18 unless there were reasonable grounds for failure so to do.
19 The finding of the ~~Administrator~~ *commission* as to the facts,
20 if supported by substantial evidence, shall be conclusive.
21 If any party shall apply to the court for leave to adduce
22 additional evidence, and shall show to the satisfaction of
23 the court that such additional evidence is material and that
24 there were reasonable grounds for failure to adduce such
25 evidence in the proceeding before the ~~Administrator~~ *com-*

1 mission, the court may order such additional evidence to be
 2 taken before the ~~Administrator~~ *commission* and to be adduced
 3 upon the hearing in such manner and upon such terms and
 4 conditions as to the court may seem proper. The ~~Adminis-~~
 5 ~~trator~~ *commission* may modify ~~his~~ *its* findings as to the facts
 6 by reason of the additional evidence so taken, and ~~he~~ *it* shall
 7 file with the court such modified or new findings, which, if
 8 supported by substantial evidence, shall be conclusive, and
 9 ~~his~~ *its* recommendation, if any, for the modification or setting
 10 aside of the original order. The judgment and decree of
 11 the court affirming, modifying, or setting aside, in whole
 12 or in part, any such order of the ~~Administrator~~ *commission*
 13 shall be final, subject to review by the Supreme Court of the
 14 United States upon certiorari or certification as provided in
 15 sections 239 and 240 of the Judicial Code, as amended
 16 (U. S. C., title 28, secs. 346 and 347). The commence-
 17 ment of proceedings under this subsection shall, unless spe-
 18 cifically ordered by the court *to the contrary*, operate as a
 19 stay of the ~~Administrator's~~ *commission's* order.

20 ~~(j)~~ (i) No proceeding for the suspension or revocation
 21 of a basic permit for violation of any condition thereof relat-
 22 ing to compliance with Federal law shall be instituted by the
 23 ~~Administrator~~ *commission* more than eighteen months after
 24 conviction of the violation of Federal law, or, if no conviction
 25 has been had, more than three years after the violation

1 occurred; and no basic permit shall be suspended or revoked
 2 for a violation of any such condition thereof if the alleged
 3 violation of Federal law has been compromised by any officer
 4 *or agency* of the Government authorized to compromise such
 5 violation.

6 UNFAIR COMPETITION AND UNLAWFUL PRACTICES

7 SEC. 5. It shall be unlawful for any person engaged in
 8 business as a distiller, ~~brewer~~, rectifier, blender, or other
 9 producer, or as an importer or wholesaler, of ~~distilled spirits,~~
 10 ~~wine, or malt beverages~~ *distilled spirits or wine*, or as a
 11 bottler, or warehouseman and bottler, of distilled spirits,
 12 directly or indirectly or through an affiliate:

13 (a) Exclusive outlet: To require, by agreement or
 14 otherwise, that any retailer engaged in the sale of ~~distilled~~
 15 ~~spirits, wine, or malt beverages~~ *distilled spirits or wine*,
 16 purchase any such products from such person to the exclu-
 17 sion in whole or in part of ~~distilled spirits, wine, or malt~~
 18 ~~beverages~~ *distilled spirits or wine* sold or offered for sale
 19 by other persons in interstate or foreign commerce, if
 20 such requirement is made in the course of interstate or for-
 21 eign commerce, or if such person engages in such practice
 22 to such an extent as substantially to restrain or prevent
 23 transactions in interstate or foreign commerce in any such
 24 products, or if the direct effect of such requirement is to
 25 prevent, deter, hinder, or restrict other persons from selling

1 or offering for sale any such products to such retailer in
2 interstate or foreign commerce; or

3 (b) "Tied house": To induce through any of
4 the following means, any retailer, engaged in the sale
5 of ~~distilled spirits, wine, or malt beverages~~ *distilled spirits*
6 *or wine*, to purchase any such products from such person
7 to the exclusion in whole or in part of ~~distilled spirits, wine,~~
8 ~~or malt beverages~~ *distilled spirits or wine* sold or offered
9 for sale by other persons in interstate or foreign commerce,
10 if such inducement is made in the course of interstate or
11 foreign commerce, or if such person engages in the practice
12 of using such means, or any of them, to such an extent as
13 substantially to restrain or prevent transactions in inter-
14 state or foreign commerce in any such products, or if the
15 direct effect of such inducement is to prevent, deter, hinder,
16 or restrict other persons from selling or offering for sale any
17 such products to such retailer in interstate or foreign com-
18 merce: (1) By acquiring or holding (after the expiration
19 of any existing license) any interest in any license with
20 respect to the premises of the retailer; or (2) by acquiring
21 any interest in real or personal property owned, occupied,
22 or used by the retailer in the conduct of his business; or (3)
23 by furnishing, giving, renting, lending, or selling to the re-
24 tailer, any equipment, fixtures, signs (*excepting signs not*
25 *exceeding \$100 in aggregate value to any retailer in any*

1 *calendar year*), supplies, money, services, or other thing of
 2 value, *except advertising specialties and graphic arts adver-*
 3 *tising items of paper or paper-like substance and* subject
 4 to such *further* exceptions as the ~~Administrator~~ *com-*
 5 *mission* shall by regulation prescribe, having due re-
 6 gard for public health, the quantity and value of articles
 7 involved, established trade customs not contrary to the pub-
 8 lic interest and the purposes of this subsection; or (4) by
 9 paying or crediting the retailer for any advertising, display,
 10 or distribution service; or (5) by guaranteeing any loan or
 11 the repayment of any financial obligation of the retailer;
 12 or (6) by extending to the retailer credit for a period in
 13 excess of the credit period usual and customary to the in-
 14 dustry for the particular class of transactions, as ascertained
 15 by the ~~Administrator~~ *commission* and prescribed by regu-
 16 lations by ~~him~~ *it*; or (7) by requiring the retailer to take
 17 and dispose of a certain quota of any of such products; or

18 (c) Commercial bribery: To induce through any of
 19 the following means, any trade buyer engaged in the sale
 20 of ~~distilled spirits, wine, or malt beverages~~ *distilled spirits*
 21 *or wine*, to purchase any such products from such person
 22 to the exclusion in whole or in part of ~~distilled spirits,~~
 23 ~~wine, or malt beverages~~ *distilled spirits or wine* sold or
 24 offered for sale by other persons in interstate or foreign
 25 commerce, if such inducement is made in the course

1 of interstate or foreign commerce, or if such person engages
 2 in the practice of using such means, or any of them, to such
 3 an extent as substantially to restrain or prevent transactions
 4 in interstate or foreign commerce in any such products, or
 5 if the direct effect of such inducement is to prevent, deter,
 6 hinder, or restrict other persons from selling or offering for
 7 sale any such products to such trade buyer in interstate or
 8 foreign commerce: (1) By commercial bribery; or (2)
 9 by offering or giving any bonus, premium, or compensation
 10 to any officer, or employee, or representative of the trade
 11 buyer; or

12 (d) Consignment sales: To sell, offer for sale, or
 13 contract to sell to any trade buyer engaged in the sale of
 14 ~~distilled spirits, wine, or malt beverages~~ *distilled spirits or*
 15 *wine*, or for any such trade buyer to purchase, offer to
 16 purchase, or contract to purchase, any such products on
 17 consignment or under conditional sale or with the privilege
 18 of return or on any basis otherwise than a bona fide sale,
 19 or where any part of such transaction involves, directly
 20 or indirectly, the acquisition by such person from the trade
 21 buyer or his agreement to acquire from the trade buyer
 22 other ~~distilled spirits, wine, or malt beverages~~ *distilled spirits*
 23 *or wine*—if such sale, purchase, offer, or contract is made
 24 in the course of interstate or foreign commerce, or if such
 25 person or trade buyer engages in such practice to such

1 an extent as substantially to restrain or prevent trans-
 2 actions in interstate or foreign commerce in any such prod-
 3 ucts, or if the direct effect of such sale, purchase, offer, or
 4 contract is to prevent, deter, hinder, or restrict other persons
 5 from selling or offering for sale any such products to such
 6 trade buyer in interstate or foreign commerce; or

7 (e) Labeling.—To sell or ship or deliver for sale or
 8 shipment, or otherwise introduce in interstate or foreign
 9 commerce, or to receive therein, or to remove from customs
 10 custody for consumption, any ~~distilled spirits, wine, or malt~~
 11 ~~beverages~~ *distilled spirits or wine* in bottles, unless such
 12 products are bottled, packaged, and labeled in conformity
 13 with such regulations, to be prescribed by the ~~Adminis-~~
 14 ~~trator~~ *commission*, with respect to packaging, marking,
 15 branding, and labeling and size and fill of container (1)
 16 as will prohibit deception of the consumer with respect to
 17 such products or the quantity thereof and as will prohibit,
 18 irrespective of falsity, such statements relating to age,
 19 manufacturing processes, analyses, guarantees, and scientific
 20 or irrelevant matters as the ~~Administrator~~ *commission*
 21 finds to be likely to mislead the consumer; (2) as will
 22 provide the consumer with adequate information as to the
 23 identity and quality of the products, the alcoholic content
 24 thereof (~~except that statements of, or statements likely to be~~
 25 ~~considered as statements of, alcoholic content of malt bever-~~

1 ages are hereby prohibited unless required by State law and
 2 except that, in case of wines, statements of alcoholic content
 3 shall be required only for wines containing more than 14 per
 4 centum of alcohol by volume), the net contents of the
 5 package, and the manufacturer or bottler or ~~importer~~ of
 6 ~~the product~~ *distributor of domestically bottled products and*
 7 *the manufacturer and importer of imported products;*
 8 (3) as will require an accurate statement, in the
 9 case of distilled spirits (other than cordials, liqueurs, and
 10 specialties) produced by blending or rectification ~~or in case of~~
 11 ~~gin whether or not produced by blending or rectification~~, if
 12 neutral spirits have been used in the production thereof, in-
 13 forming the consumer of the percentage of neutral spirits so
 14 used and of the name of the commodity from which
 15 such neutral spirits have been distilled, *or in case of*
 16 *neutral spirits or of gin produced by a process of con-*
 17 *tinuous distillation, the name of the commodity from which*
 18 *distilled;* (4) as will prohibit statements on the label
 19 that are disparaging of a competitor's products or are
 20 false, misleading, obscene, or indecent; and (5) as will
 21 prevent deception of the consumer by use of a trade or brand
 22 name that is the name of any living individual of public promi-
 23 nence, or existing private or public organization, or is a
 24 name that is in simulation or is an abbreviation thereof,
 25 and as will prevent the use of a graphic, pictorial, or

1 emblematic representation of any such individual or organ-
 2 ization, if the use of such name or representation is likely
 3 falsely to lead the consumer to believe that the product
 4 has been indorsed, made, or used by, or produced for, or
 5 under the supervision of, or in accordance with the specifi-
 6 cations of, such individual or organization: *Provided, That*
 7 this clause shall not apply to the use of the name of any
 8 person engaged in business as a distiller, ~~brewer,~~ rectifier,
 9 blender, or other producer, or as an importer, wholesaler,
 10 retailer, bottler, or warehouseman, of ~~distilled spirits, wine,~~
 11 ~~or malt beverages~~ *distilled spirits or wine*, nor to the use
 12 by any person of a trade or brand name used by him or his
 13 predecessor in interest prior to the date of the enactment
 14 of this Act; including regulations requiring, at time of
 15 release from customs custody, certificates issued by foreign
 16 governments covering origin, age, and identity of imported
 17 products. ~~No person shall remove from Government cus-~~
 18 ~~tody after purchase at any Government sale any distilled~~
 19 ~~spirits, wine, or malt beverages in bottles to be held for sale,~~
 20 ~~until such bottles are packaged, marked, branded, and~~
 21 ~~labeled in conformity with the requirements of this sub-~~
 22 ~~section.~~

23 It shall be unlawful for any person to alter, mutilate,
 24 destroy, obliterate, or remove any mark, brand, or label
 25 upon ~~distilled spirits, wine, or malt beverages~~ *distilled spirits*

1 *or wine* held for sale in interstate or foreign commerce or
 2 after shipment therein, except as authorized by Federal law
 3 or except pursuant to regulations of the ~~Administrator~~ *com-*
 4 *mission* authorizing relabeling for purposes of compliance
 5 with the requirements of this subsection or of State law.

6 In order to prevent the sale or shipment or other intro-
 7 duction of ~~distilled spirits, wine, or malt beverages~~ *distilled*
 8 *spirits or wine* in interstate or foreign commerce, if bottled,
 9 packaged, or labeled in violation of the requirements of this
 10 subsection, no bottler, or importer of ~~distilled spirits, wine, or~~
 11 ~~malt beverages~~ *distilled spirits or wine*, shall, after such date
 12 as the ~~Administrator~~ *commission* fixes as the earliest prac-
 13 ticable date for the application of the provisions of this
 14 subsection to any class of such persons (but not later than
 15 ~~January~~ *March* 1, 1936, and only after thirty days' public
 16 notice), bottle or remove from customs custody for con-
 17 sumption ~~distilled spirits, wine, or malt beverages~~ *distilled*
 18 *spirits or wine*, respectively, unless the bottler or importer,
 19 upon application to the ~~Administrator~~ *commission*, has ob-
 20 tained and has in his possession a certificate of label approval
 21 covering the ~~distilled spirits, wine, or malt beverages~~ *dis-*
 22 *tilled spirits or wine*, issued by the ~~Administrator~~ *commission*
 23 in such manner and form as ~~he~~ *it* shall by regulations pre-
 24 scribe: *Provided*, That any such bottler shall be exempt from
 25 the requirements of this subsection if the bottler, upon appli-

1 cation to the ~~Administrator~~ *commission*, shows to the satis-
 2 faction of the ~~Administrator~~ *commission* that the ~~distilled~~
 3 ~~spirits, wine, or malt beverages~~ *distilled spirits or wine* to
 4 be bottled by the applicant are not to be sold, or offered for
 5 sale, or shipped or delivered for shipment, or otherwise
 6 introduced, in interstate or foreign commerce. Officers of
 7 internal revenue and customs are authorized and directed
 8 to withhold the release of such products from the bottling
 9 plant or customs custody unless such certificates have been
 10 obtained, or unless the application of the bottler for exemp-
 11 tion has been granted by the ~~Administrator~~ *commission*.
 12 The district courts of the United States, the Supreme Court
 13 of the District of Columbia, and the United States court for
 14 any Territory, shall have jurisdiction of suits to enjoin, annul,
 15 or suspend in whole or in ~~part~~, *part* any final action by the
 16 ~~Administrator~~ *commission* upon any application under this
 17 subsection; or

18 (f) Advertising: To publish or disseminate or cause
 19 to be published or disseminated by radio broadcast, or in
 20 any newspaper, periodical or other publication or by any
 21 sign or outdoor advertisement or any other printed or
 22 graphic matter, any advertisement of ~~distilled spirits, wine,~~
 23 ~~or malt beverages~~ *distilled spirits or wine*, if such advertise-
 24 ment is in, or is calculated to induce sales in, interstate or
 25 foreign commerce, or is disseminated by mail, unless such

1 advertisement is in conformity with such regulations, to be
 2 prescribed by the ~~Administrator~~ *commission*, (1) as will
 3 prevent deception of the consumer with respect to the prod-
 4 ucts advertised and as will prohibit, irrespective of falsity,
 5 such statements relating to age, manufacturing processes,
 6 analyses, guaranties, and scientific or irrelevant matters
 7 as the ~~Administrator~~ *commission* finds to be likely to
 8 mislead the consumer; (2) as will provide the consumer
 9 with adequate information as to the identity and quality of
 10 the products advertised, the alcoholic content thereof (~~except~~
 11 ~~that statements of, or statements likely to be considered as~~
 12 ~~statements of, alcoholic content of malt beverages are pro-~~
 13 ~~hibited and except that, in case of wines, statements of al-~~
 14 ~~coholic content shall be required only for wines containing~~
 15 ~~more than 14 per centum of alcohol by volume), and the~~
 16 ~~person responsible for the advertisement; (3) as will~~
 17 ~~require an accurate statement, in the case of distilled~~
 18 ~~spirits (other than cordials, liqueurs, and specialties) pro-~~
 19 ~~duced by blending or rectification or in case of gin whether~~
 20 ~~or not produced by blending or rectification, if neutral spirits~~
 21 ~~have been used in the production thereof, informing the con-~~
 22 ~~sumer of the percentage of neutral spirits so used and~~
 23 ~~of the name of the commodity from which such neutral~~
 24 ~~spirits have been distilled, or in case of neutral spirits or~~
 25 ~~of gin produced by a process of continuous distillation, the~~

1 *name of the commodity from which distilled; (4) as will pro-*
2 *hibit statements that are disparaging of a competitor's prod-*
3 *ucts or are false, misleading, obscene, or indecent; (5) as will*
4 *prevent statements inconsistent with any statement on the*
5 *labeling of the products advertised. This subsection shall*
6 *not apply to outdoor advertising in place on June 18,*
7 *1935, but shall apply upon replacement, restoration, or*
8 *renovation of any such advertising. The prohibitions of*
9 *this subsection and regulations thereunder shall not apply to*
10 *the publisher of any newspaper, periodical, or other publica-*
11 *tion, or radio broadcaster, unless such publisher or radio*
12 *broadcaster is engaged in business as a distiller, rectifier, or*
13 *other producer, or as an importer or wholesaler, of distilled*
14 *spirits or wine, or as a bottler, or warehouseman and bottler,*
15 *of distilled spirits, directly or indirectly or through an*
16 *affiliate.*

17 The provisions of subsections (a), (b), and (c) shall
18 not apply to any act done by an agency of a State or
19 political subdivision thereof, or by any officer or employee
20 of such agency.

21 The ~~Administrator~~ *commission* shall give reasonable
22 public notice, and afford to interested parties opportunity
23 for hearing, prior to prescribing regulations to carry out the
24 provisions of this section.

BULK SALES AND BOTTLING

SEC. 6. (a) *It shall be unlawful for any person—*

(1) *To sell or offer to sell, contract to sell, or otherwise dispose of distilled spirits in bulk except, under regulations of the commission, for export or to the following, or to import distilled spirits in bulk except, under such regulations, for sale to or for use by the following: A distiller, rectifier of distilled spirits, person operating a bonded warehouse qualified under the internal-revenue laws or a class 8 bonded warehouse qualified under the customs laws, a wine maker for the fortification of wines, a proprietor of an industrial alcohol plant, or an agency of the United States or any State or political subdivision thereof.*

(2) *To sell or offer to sell, contract to sell, or otherwise dispose of warehouse receipts for distilled spirits in bulk unless such warehouse receipts require that the warehouseman shall package such distilled spirits, before delivery, in bottles labeled and marked in accordance with law, or deliver such distilled spirits in bulk only to persons to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.*

(3) *To bottle distilled spirits unless the bottler is a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk.*

1 (b) Any person who violates the requirements of this
2 section shall, upon conviction thereof, be fined not more
3 than \$5,000 or imprisoned for not more than one year or
4 both, and shall forfeit to the United States all distilled spirits
5 with respect to which the violation occurs and the containers
6 thereof.

7 (c) The term "in bulk" means in containers having a
8 capacity in excess of one wine gallon.

9 PENALTIES

SEC. 6 7. The District Courts of the United States, the Supreme Court of the District of Columbia, and the United States Court for any Territory, of the District where the offense is committed or threatened or of which the offender is an inhabitant or has his principal place of business, are hereby vested with jurisdiction of any suit brought by the Attorney General in the name of the United States, to prevent and restrain violations of any of the provisions of this Act. Any person violating any of the provisions of sections 3 or 5 shall be guilty of a misdemeanor and upon conviction thereof be fined not more than \$1,000 for each offense. Subject to the approval of the Attorney General, the ~~Administrator~~ *commission* is authorized, prior to commencement of court proceedings with respect to any violation of this Act, to compromise the liability arising with respect to such violation (1) upon payment of a sum not

1 in excess of \$500 for each offense, to be collected by the
 2 ~~Administrator~~ *commission* and to be paid into the Treasury
 3 as miscellaneous receipts, and (2) in case of repetitious vio-
 4 lations and in order to avoid multiplicity of criminal proceed-
 5 ings, upon agreement to a stipulation that the United States
 6 may, on its own motion upon five days' notice to the viola-
 7 tor, cause a consent decree to be entered by any court of
 8 competent jurisdiction enjoining the repetition of such
 9 violation.

10 INTERLOCKING DIRECTORATES

11 SEC. 7 8. (a) Except as provided in subsection (b),
 12 it shall be unlawful for any individual to take office, after
 13 the date of the enactment of this Act, as an officer or director
 14 of any company, if his doing so would make him an officer
 15 or director of more than one company engaged in business
 16 as a distiller, rectifier, or blender of distilled spirits, or of
 17 any such company and of a company which is an affiliate
 18 of any company engaged in business as a distiller, rectifier,
 19 or blender of distilled spirits, or of more than one company
 20 which is an affiliate of any company engaged in business
 21 as a distiller, rectifier, or blender of distilled spirits, unless,
 22 prior to taking such office, application made by such indi-
 23 vidual to the ~~Administrator~~ *commission* has been granted and
 24 after due showing has been made to ~~him~~ *it* that service by

1 such individual as officer or director of all the foregoing com-
 2 panies of which he is an officer or director together with
 3 service in the company with respect to which application
 4 is made will not substantially restrain or prevent competition
 5 in interstate or foreign commerce in distilled spirits. The
 6 ~~Administrator~~ *commission* shall, by order, grant or deny such
 7 application on the basis of the proof submitted to ~~him~~ *it* and
 8 ~~his~~ *its* finding thereon. The District Courts of the United
 9 States, the Supreme Court of the District of Columbia, and
 10 the United States ~~courts~~ *court* for any Territory shall have
 11 jurisdiction of suits to enjoin, annul, or suspend *in whole or*
 12 *in part* any final action by the ~~Administrator~~ *commission*
 13 upon any application under this subsection.

14 (b) An individual may, without regard to the provi-
 15 sions of subsection (a), take office as an officer or director
 16 of a company described in subsection (a) while holding
 17 the position of officer or director of any other such company
 18 if such companies are affiliates at the time of his taking
 19 office and if—

20 (1) Such companies are affiliates on the date of
 21 the enactment of this Act; or

22 (2) Each of such companies has been organized
 23 under the law of a State to comply with a requirement
 24 thereof under which, as a condition of doing business

1 in such State, such company must be organized under
2 the law of such State; or

3 (3) One or more such companies has been organ-
4 ized under the law of a State to comply with a require-
5 ment thereof under which, as a condition of doing
6 business in such State, such company must be organ-
7 ized under the laws of such State, and the other one
8 or more of such companies not so organized, is in
9 existence on the date of the enactment of this Act; or

10 (4) One or more of such companies has been
11 organized under the law of a State to comply with a
12 requirement thereof under which, as a condition of
13 doing business in such State, such company must be
14 organized under the law of such State, and not more
15 than one of such companies is a company which has
16 not been so organized and which has been organized
17 after the date of the enactment of this Act.

18 (c) As used in this section, the term "company"
19 means a corporation, joint stock company, business trust,
20 or association, but does not include any agency of a State
21 or political subdivision thereof or any officer or employee
22 of any such agency.

23 (d) Any individual taking office in violation of this
24 section shall be punished by a fine of not exceeding \$1,000.

1 *DISPOSAL OF FORFEITED DISTILLED SPIRITS AND WINE*

2 *SEC. 9. Notwithstanding any provisions of existing*
 3 *law, distilled spirits and wine forfeited or condemned sum-*
 4 *marily or pursuant to court decree or otherwise, by or*
 5 *under any law of the United States, shall not be sold or*
 6 *otherwise disposed of publicly or privately but shall be*
 7 *destroyed at such time as such forfeiture or condemnation*
 8 *has become final; except that any such distilled spirits and*
 9 *wine certified by Government chemists to be of a quality*
 10 *equivalent to United States Pharmacopœia quality or to be*
 11 *suitable for medicinal purposes shall be placed in the cus-*
 12 *tody of the United States Public Health Service and disposed*
 13 *of by the Surgeon General of such Service, in accordance*
 14 *with regulations to be prescribed by him, to hospitals oper-*
 15 *ated or maintained in whole or in part by the United States,*
 16 *for use by them for medicinal purposes only.*

17 FEDERAL ALCOHOL CONTROL ADMINISTRATION

18 *SEC. 8 10. The Federal Alcohol Control Administra-*
 19 *tion established by Executive order under the provisions of*
 20 *Title I of the National Industrial Recovery Act is hereby*
 21 *abolished. All papers, records, and property of such Fed-*
 22 *eral Alcohol Control Administration are hereby transferred*
 23 *to the Administrator commission. This section shall take*
 24 *effect on the date that the Administrator first appointed*

1 under this Act takes office when a majority of the commis-
 2 sioners first appointed under this Act have taken office.

3 MISCELLANEOUS

4 SEC. 9 11. (a) As used in this Act—

5 ~~(1) The term “Administrator” means the head~~
 6 ~~of the Federal Alcohol Administration.~~

7 (1) The term “commission” means the Federal
 8 Alcohol Commission.

9 (2) The term “United States” means the sev-
 10 eral States and Territories and the District of Colum-
 11 bia; the term “State” includes a Territory and the
 12 District of Columbia; and the term “Territory” means
 13 Alaska, Hawaii, and Puerto Rico.

14 (3) The term “interstate or foreign commerce”
 15 means commerce between any State and any place
 16 outside thereof, or commerce within any Territory or
 17 the District of Columbia, or between points within
 18 the same State but through any place outside thereof.

19 (4) The term “person” means individual, part-
 20 nership, joint stock company, business trust, associa-
 21 tion, corporation, or other form of business enterprise,
 22 including a receiver, trustee, or liquidating agent and
 23 including an officer or employee of any agency of a
 24 State or political subdivision thereof; and the term

1 “trade buyer” means any person who is a wholesaler
2 or retailer.

3 (5) The term “affiliate” means any one of two
4 or more persons if one of such persons has actual or
5 legal control, directly or indirectly, whether by stock
6 ownership or otherwise, of the other or others of such
7 persons; and any one of two or more persons subject to
8 common control, actual or legal, directly or indirectly,
9 whether by stock ownership or otherwise.

10 (6) The term “distilled spirits” means ethyl
11 alcohol, hydrated oxide of ethyl, spirits of wine,
12 whiskey, rum, brandy, gin, and other distilled spirits,
13 including all dilutions and mixtures thereof, for non-
14 industrial use.

15 (7) The term “wine” means (1) wine as de-
16 fined in section 610 and section 617 of the Revenue
17 Act of 1918, (U. S. C., title 26, secs. 441 and 444)
18 as now in force or hereafter amended, and (2) other
19 alcoholic beverages not so defined, but made in the
20 manner of wine, including sparkling and carbonated
21 wine, wine made from condensed grape must, wine
22 made from other agricultural products than the juice
23 of sound, ripe grapes, imitation wine, compounds sold
24 as wine, vermouth, cider, perry and sake; in each

1 instance only if containing not less than 7 per centum
 2 and not more than 24 per centum of alcohol by volume,
 3 and if for non-industrial use.

4 ~~(8)~~ The term "malt beverage" means a bev-
 5 erage made by the alcoholic fermentation of an infusion
 6 or decoction, or combination of both, in potable brew-
 7 ing water, of malted barley with hops, or their parts,
 8 or their products, and with or without other malted
 9 cereals, and with or without the addition of unmalted
 10 or prepared cereals, other carbohydrates or products
 11 prepared therefrom, and with or without the addition
 12 of carbon dioxide, and with or without other whole-
 13 some products suitable for human food consumption.

14 ~~(9)~~ (8) The term "bottle" means any con-
 15 tainer, irrespective of the material from which made,
 16 for use for the sale of distilled spirits, wine, or malt
 17 beverages *distilled spirits or wine* at retail.

18 (b) The right to amend or repeal the provisions of
 19 this Act is expressly reserved.

20 (c) If any provision of this Act, or the application
 21 of such provision to any person or circumstance, is held
 22 invalid, the remainder of the Act and the application of such
 23 provision to persons or circumstances other than those as
 24 to which it is held invalid, shall not be affected thereby.

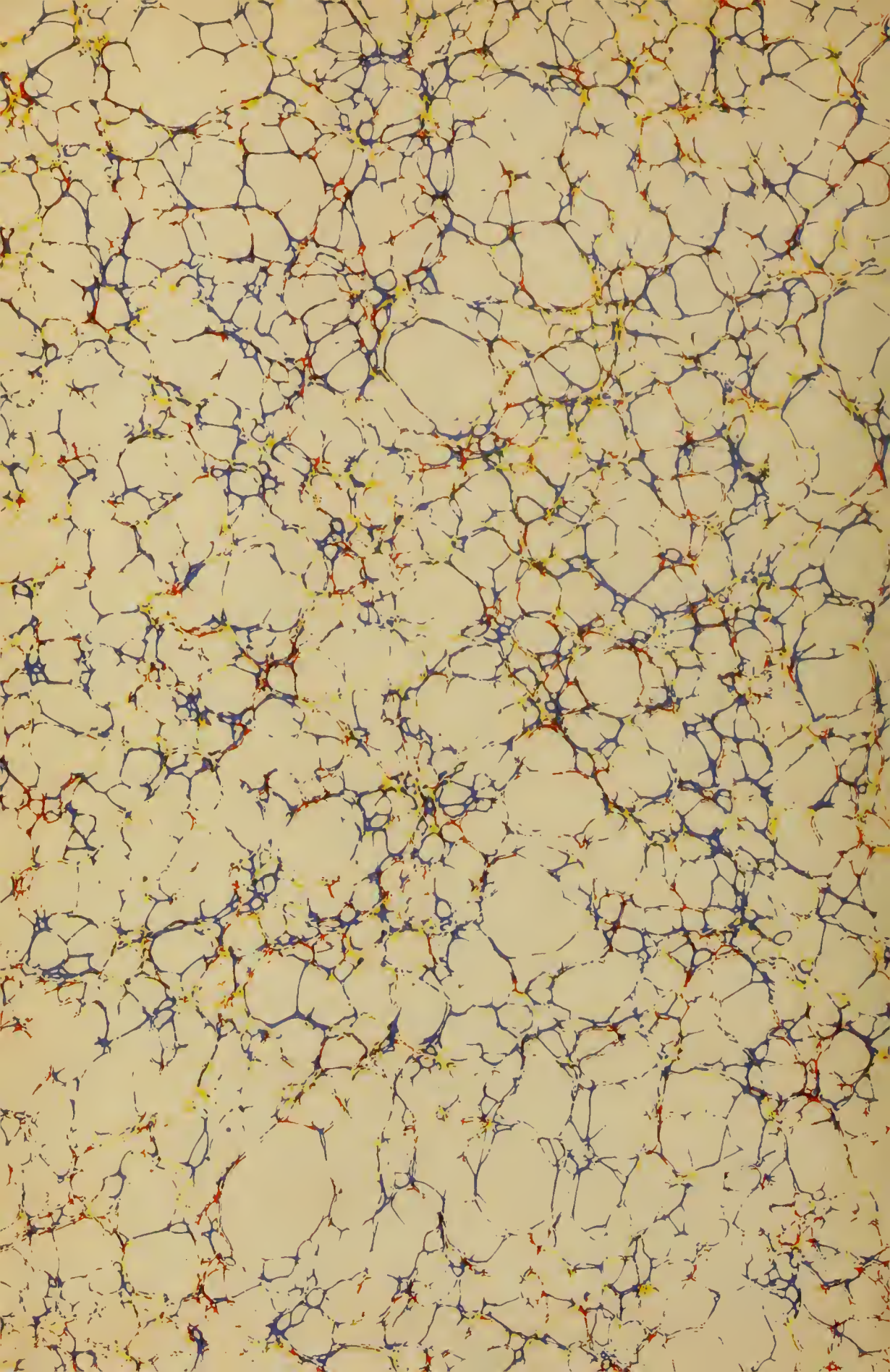
Amend the title so as to read: "An Act to further protect the revenue derived from distilled spirits and wine, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes."

Passed the House of Representatives July 24, 1935.

Attest:

SOUTH TRIMBLE,

Clerk.



Legis.Hist.
P.L.74-407
(H.R.8974)
Pt.3

Federal alcohol
administration
act, 1935.

Legis.Hist.
P.L.74-407
(H.R.8974)

Federal alcohol
administration
act, 1935.

~~Pt.3~~

TITLE

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